

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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ASHTON MORRIS, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0648

Case Type: PA

DECISION NO. 40713

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Appearances:

Ashton Morris, 750 West River Edge Court, Oak Creek, Wisconsin, appearing on his own behalf.

David Makovec, Attorney, Department of Administration, 101 E. Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin appearing on behalf of the State of Wisconsin Department of Corrections.

**DECISION AND ORDER**

Appellant Ashton Morris is employed as a correctional officer at the DOC's Racine Correctional Institute in Racine, Wisconsin. On May 13, 2024, Morris was injured at work while on the job in the course of his employment. Morris sought and was denied benefits under Wis. Stat. § 230.36, Stats. He filed a timely grievance and pursued that matter through the grievance procedure. Morris filed a timely appeal to the Wisconsin Employment Relations Commission on June 7, 2024. The matter was assigned to Examiner Katherine Scott Lisiecki.

A telephone hearing was held on August 7, 2024, and the parties submitted written closing arguments on August 30, 2024. A Proposed Decision and Order was issued on December 19, 2024. No objections to the Proposed Decision were filed by the parties by the given deadline of January 8, 2025.

Being fully advised on the premises and having considered the matter, the Commission makes and issues the following:

**FINDINGS OF FACT**

1. At all times material Appellant Ashton Morris was employed as a state employee.

2. Respondent Department of Corrections is a state agency and operates Racine Correctional Institution, located in Racine, Wisconsin.
3. On May 13, 2024, Morris was employed as a Correctional Officer at Racine Correctional Institution.
4. While working as a guard within the meaning of Wis. Stat. § 230.36(2m)(a)20., Morris suffered an accidental injury within the meaning of Wis. Stat. § 230.36(1m)(a).
5. The injury occurred while Morris was conducting a search of an inmate's cell and discovered a bottle of nasal spray.
6. Morris was negligent in his method of testing the nasal spray, conducting such in a manner against the training and procedure of DOC.
7. Morris suffered a nosebleed, vomited three times, and was treated in the emergency room of a local hospital.
8. The liquid in the bottle tested negative for common drugs, including methamphetamine.
9. Morris tested negative for common drugs, including methamphetamine.
10. No inmates were involved in the cell search.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

#### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter pursuant to Wis. Stat. § 230.36(4).
2. At all times material Morris was employed as a state employee.
3. Morris is not eligible for benefits under Wis. Stat. § 230.36.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

#### **ORDER**

That the appeal of Ashton Morris is rejected and dismissed.

Issued at the City of Madison, Wisconsin, this 18<sup>th</sup> day of February 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

**MEMORANDUM ACCOMPANYING DECISION AND ORDER**

Certain state employees may be entitled to hazardous duty pay if they are injured in the performance of their duties. The law in question, Wis. Stat. § 230.36, sets qualifying standards based upon the employee's job and a second set of qualifying standards based on the work the employee was performing when injured. Guards and other employees at state penal institutions are eligible for hazardous duty pay if they are injured, or physically harmed by accident or disease, (a) in the process of quelling a riot or disturbance or other act of violence; (b) in the process of restraining patients, inmates, probationers, parolees or persons on extended supervision and apprehending runaways or escapees, including probationers, parolees and persons on extended supervision; (c) when injury is occasioned as the result of an act by a patient, inmate, probationer, parolee or person on extended supervision; (d) in the process of making an arrest or investigating any violation or suspected violation of law pursuant to police powers authorized by s. 46.058(2) or 301.29(2) and rules adopted pursuant thereto; (e) going to or returning from a fire, engaging in the suppression of a fire, evacuating patients or inmates because of a fire or engaging in fire drills; or (f) when disease is contracted as a result of exposure to such disease arising out of the care of inmates or patients.

Here, it is undisputed that Ashton Morris is an employee at a state penal institution, Racine Correctional Institution. On May 13, 2024, Morris was conducting cell searches, which was one of his daily responsibilities. Morris discovered a bottle of nasal spray in one cell, which he opened and inhaled. He thought it smelled strange and sent the bottle up to his supervisor's office to be tested for drugs. About an hour after completing his cell searches, Morris became loopy, giggly, and disoriented: unprofessional behavior that his colleagues testified was out of the norm for him. Morris testified that he felt nauseated and fatigued. Morris suffered from a nosebleed, then started vomiting blood. Morris's father took him to the emergency room. Morris testified that he tested negative for drugs in the emergency room.

Morris testified that he suffers from seasonal allergies and was taking over-the-counter allergy medication at the time of the incident. However, this medication had never caused nosebleeds, nausea, or vomiting. He likewise testified that he was not sick, taking any other medication, or making any other dietary changes at the time of the incident.

Multiple Racine employees testified that they heard that methamphetamine was discovered in the cells. However, Lieutenant Laura Dangelser testified that she tested the substance in the nasal spray bottle using a MobileDetect drug test, which tests for cocaine, methamphetamine, amphetamines, opiates, and other common illegal substances. The substance in the nasal spray bottle tested negative for all of the substances. Dangelser further testified that the substance in the nasal spray bottle smelled like "prayer oil," a strongly scented oil used in worship ceremonies, often containing frankincense and myrrh. Inmates are allowed to have prayer oil, though it must be properly labelled. Further, Morris's symptoms are not consistent with those of someone who has ingested methamphetamines. Rather, his symptoms seem to suggest that he may have had an allergic reaction to the substance in the nasal spray bottle.

It seems that Morris suffered some ill effects that may have been caused by inhaling the substance of the nasal spray bottle. However, testimony showed that Morris was negligent and did not follow DOC policy and procedure when investigating the substance. Correctional officers are instructed to "waif" the aroma of a liquid contained in a vessel to see if they can detect hints of prohibited substances contained therein. In this case, Morris "open and inhaled" the substance, potentially causing the side effects that he later experienced. So, while testing showed no chemicals that could be found to be the cause of Morris's altered behavior later in the day, even assuming that there was something contained in the bottle, it was Morris's contributing actions of not following correct procedure which caused the ultimate reaction if, in fact, there was a correlation between the two at all.

Therefore, assuming for the sake of argument that Morris' actions would otherwise have qualified him for hazardous duty pay, his negligence serves to disqualify him.

Issued at the City of Madison, Wisconsin, this 18<sup>th</sup> day of February 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman